

VOLUME 11 FLIGHT STANDARDS PROGRAMS**CHAPTER 3 WHISTLEBLOWER PROTECTION PROGRAM (AIR CARRIER)****Section 3 Complaint Processing****11-143. FEDERAL AVIATION ADMINISTRATION (FAA) PROCESSING.**

A. FAA receives a whistleblower complaint from an employee of an air carrier, contractor, or subcontractor or from OSHA.

- Normally, complaints are received from the FAA's Whistleblower Protection Program (WBPP) Hotline, the FAA WBPP web site's electronic complaint form, FAA field and regional offices, Occupational Safety and Health Administration (OSHA) offices, or Department of Transportation (DOT) Office of the Inspector General (OIG) offices. However, complaints may be received from any person on behalf of the complainant.

B. The National Whistleblower Protection Program Office at Quality, Integration and Process Division (AQS-100) screens the whistleblower complaint for the following elements:

- The complainant must be a covered employee;
- The complainant must have been engaged in a protected activity as described in Title 49 of the United States Code (49 U.S.C.) § 42121(a) (i.e., previous to the discrimination event, reported any violation or alleged violation of any FAA order, standard or regulation or any other provision of Federal law or any other law of the United States relating to air carrier safety to their employer or to the Federal Government); and
- The complainant must believe that they have been discriminated against for engaging in the protected activity. (The employee must be able to show that the employer had knowledge of the protected activity (employee safety report) prior to the alleged discrimination.)

NOTE: Employees who just want to "blow the whistle" and have not been discriminated against for reporting a safety complaint should not file a whistleblower complaint. At this point the employee is merely reporting an alleged safety violation which should be investigated as a safety-only complaint. However, ASIs should advise them of their rights under the WBPP if they perceive any retaliation as a result of their safety report.

C. AQS-100 assigns the Whistleblower complaint an FAA WBPP tracking number and coordinates the complaint with the U.S. Department of Labor (DOL), OSHA.

D. Director of Flight Standards Service (AFS-1) assigns the whistleblower complaint to the FAA Regional Flight Standards Division Manager that has certificate responsibility or geographic responsibility for investigation of safety allegations.

E. The Regional Division Manager, through the Regional Whistleblower Coordinator, tracks and assigns the complaint to the appropriate CHDO or Office with geographic responsibility for investigation of the safety allegations.

F. The Field or Regional Office, if specified by AFS-1, conducts an investigation of each safety allegation in the complaint, interviews witnesses, and collects evidence in the same manner as they would conduct any other safety investigation. (See confidentiality requirements and importance of contacting the complainant first.)

G. The Field Office takes appropriate corrective or enforcement action if allegations are substantiated and prepares a memo from the office manager to the Regional Division Manager, Attn: WB Coordinator. The response should address each safety allegation, investigative actions, findings, and results, include attachments if necessary. (See inspector procedures.)

H. The Regional Whistleblower Coordinator (RWBC) reviews the report for completeness. If the report is unsatisfactory, the RWBC will nonconcur and return it to the investigating office for further investigation and or clarification. When the RWBC concurs with the report, he or she should forward it to the Regional Division Manager. Once the Regional Division Manager concurs with the adequacy and findings of the investigation, the RWBC prepares a memo from the division manager to AFS-1, Attn: AQS-100, summarizing the findings. The memo will state what the investigation revealed, any violations, and the proposed sanctions for the violations, and that the Regional Division Manager concurs with the results of the investigation. The RWBC will also attach the investigating office's report to the memo.

I. The Regional Office Division Manager forwards the preliminary results of the investigation within 45 days to AFS-1, Attn: WBPP AQS-100.

J. Comments section should also state if enforcement action was taken and the proposed recommended sanction. Attach a copy of the letter if administrative action was taken.

11-144. DOL PROCESSING. Simultaneously, DOL, through OSHA, conducts an investigation concerning the allegations of discrimination.

A. OSHA must determine if the case has merit (i.e., is a prima facie case) within 60 days of receiving a complaint or dismiss the complaint as having no merit.

B. OSHA may offer a settlement between the parties, or

C. Issue a preliminary order of abatement, reinstatement and compensatory damages.

D. When the Secretary of Labor's order of relief becomes final, the FAA may take additional civil penalty action against the company for violating the whistleblower law.

RESERVED. Paragraphs 11-145 through 11-159.